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AN ACT

To authorize appropriations to carry out titles II and III of the Marine Protection, Research, and Sanctuaries Act of 1972, to establish the National Oceans Policy Commission, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **TITLE I—COMPREHENSIVE OCEAN DUMP-**
2 **ING RESEARCH PROGRAM AMEND-**
3 **MENTS AND AUTHORIZATION**

4 **SEC. 101. RESEARCH TO BE CONSISTENT WITH COMPREHEN-**
5 **SIVE PLAN.**

6 Subsection (a) of section 202 of the Marine Protection,
7 Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442(a))
8 is amended by adding at the end the following:

9 “(3) The Secretary of Commerce shall ensure that the
10 comprehensive and continuing research program conducted
11 under this subsection is consistent with the comprehensive
12 plan for ocean pollution research and development and moni-
13 toring prepared under section 4 of the National Ocean Pollu-
14 tion Planning Act of 1978 (33 U.S.C. 1703).”.

15 **SEC. 102. ANNUAL REPORT.**

16 Section 204 of the Marine Protection, Research, and
17 Sanctuaries Act of 1972 (33 U.S.C. 1444) is amended by
18 adding at the end the following:

19 “(c) On October 31 of each year, the Under Secretary
20 shall report to the Congress the specific programs that the
21 National Oceanic and Atmospheric Administration and the
22 Environmental Protection Agency carried out pursuant to
23 this title in the previous fiscal year, specifically listing the
24 amount of funds allocated to those specific programs in the
25 previous fiscal year.”.

1 **SEC. 103. AUTHORIZATION.**

2 Section 205 of the Marine Protection, Research, and
3 Sanctuaries Act of 1972 (33 U.S.C. 1445) is amended—

4 (1) by striking “and” immediately following
5 “fiscal year 1986,”; and

6 (2) by striking “1987.” and inserting in lieu
7 thereof “1987, not to exceed \$13,500,000 for fiscal
8 year 1989, and not to exceed \$14,500,000 for fiscal
9 year 1990.”.

10 **TITLE II—NATIONAL MARINE SANCTUARIES**
11 **PROGRAM AMENDMENTS AND AUTHORI-**
12 **ZATION**

13 **SEC. 201. DEFINITION OF ACT.**

14 For purposes of this title, the term “Act” means title
15 III of the Marine Protection, Research, and Sanctuaries Act
16 of 1972 (16 U.S.C. 1431–1439).

17 **SEC. 202. SANCTUARY DESIGNATION PROCEDURE AMEND-**
18 **MENTS.**

19 Paragraph (1) of section 304(b) of the Act (16 U.S.C.
20 1434(b)(1)) is amended by inserting after the second sentence
21 the following: “The Secretary shall issue a notice of designa-
22 tion with respect to a proposed national marine sanctuary site
23 not later than 30 months after the date a notice declaring the
24 site to be an active candidate for sanctuary designation is
25 published in the Federal Register under regulations issued
26 under this Act, or shall publish not later than such date in the

1 Federal Register findings regarding why such notice has not
2 been published.”.

3 **SEC. 203. PROMOTION AND COORDINATION OF RESEARCH;**
4 **SPECIAL USE PERMITS; USE OF DONATIONS.**

5 The Act is amended—

6 (1) by striking section 308;

7 (2) by redesignating section 309 as section 308;

8 and

9 (3) by adding at the end the following:

10 **“SEC. 309. PROMOTION AND COORDINATION OF RESEARCH.**

11 “The Secretary shall take such action as is necessary to
12 promote and coordinate the use of national marine sanctuar-
13 ies for research purposes, including—

14 “(1) requiring that the National Oceanic and At-
15 mospheric Administration, in conducting or supporting
16 marine research, give priority to research involving na-
17 tional marine sanctuaries; and

18 “(2) consulting with other Federal and State
19 agencies to promote use by such agencies of one or
20 more sanctuaries for marine research.

21 **“SEC. 310. SPECIAL USE PERMITS.**

22 “(a) **ISSUANCE OF PERMITS.**—The Secretary may
23 issue special use permits which authorize the conduct of spe-
24 cific activities in a national marine sanctuary if the Secretary
25 determines such authorization is necessary—

1 “(1) to establish conditions of access to and use of
2 any sanctuary resource; or

3 “(2) to promote public use and understanding of a
4 sanctuary resource.

5 “(b) PERMIT TERMS.—A permit issued under this
6 section—

7 “(1) shall authorize the conduct of an activity only
8 if that activity is compatible with the purposes for
9 which the sanctuary is designated and with protection
10 of sanctuary resources;

11 “(2) shall not authorize the conduct of any activi-
12 ty for a period of more than 5 years unless renewed by
13 the Secretary;

14 “(3) shall require that activities carried out under
15 the permit be conducted in a manner that does not de-
16 stroy, cause the loss of, or injure sanctuary resources;
17 and

18 “(4) shall require the permittee to purchase and
19 maintain comprehensive general liability insurance
20 against claims arising out of activities conducted under
21 the permit and to agree to hold the United States
22 harmless against such claims.

23 “(c) FEES.—

1 “(1) ASSESSMENT AND COLLECTION.—The Sec-
2 retary may assess and collect fees for the conduct of
3 any activity under a permit issued under this section.

4 “(2) AMOUNT.—The amount of a fee under this
5 subsection shall be equal to the sum of—

6 “(A) costs incurred, or expected to be in-
7 curred, by the Secretary in issuing the permit;

8 “(B) costs incurred, or expected to be in-
9 curred, by the Secretary as a direct result of the
10 conduct of the activity for which the permit is
11 issued, including costs of monitoring the conduct
12 of the activity; and

13 “(C) an amount which represents the fair
14 market value of the use of the sanctuary resource
15 and a reasonable return to the United States
16 Government.

17 “(3) USE OF FEES.—Amounts collected by the
18 Secretary in the form of fees under this section may be
19 used by the Secretary—

20 “(A) for issuing and administering permits
21 under this section; and

22 “(B) for expenses of designating and manag-
23 ing national marine sanctuaries.

1 “(d) VIOLATIONS.—Upon violation of a term or condi-
2 tion of a permit issued under this section, the Secretary
3 may—

4 “(1) suspend or revoke the permit without com-
5 pensation to the permittee and without liability to the
6 United States;

7 “(2) assess a civil penalty in accordance with sec-
8 tion 307; or

9 “(3) both.

10 “(e) REPORTS.—Each person issued a permit under this
11 section shall submit an annual report to the Secretary not
12 later than December 31 of each year which describes activi-
13 ties conducted under that permit and revenues derived from
14 such activities during the year.

15 “(f) FISHING.—Nothing in this section shall be consid-
16 ered to require a person to obtain a permit under this section
17 for the conduct of any fishing activities in a national marine
18 sanctuary.

19 “SEC. 311. COOPERATIVE AGREEMENTS AND DONATIONS.

20 “(a) COOPERATIVE AGREEMENTS.—The Secretary
21 may enter into cooperative agreements with any nonprofit
22 organization—

23 “(1) to aid and promote interpretive, historical,
24 scientific, and educational activities; and

1 “(2) for the solicitation of private donations for
2 the support of such activities.

3 “(b) DONATIONS.—The Secretary may accept dona-
4 tions of funds, property, and services for use in designating
5 and administering national marine sanctuaries under this
6 title.”.

7 SEC. 204. DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTU-
8 ARY RESOURCES.

9 (a) LIABILITY FOR DESTRUCTION OR LOSS OF, OR
10 INJURY TO, SANCTUARY RESOURCES.—The Act is amended
11 by adding at the end the following:

12 “SEC. 312. DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTU-
13 ARY RESOURCES.

14 “(a) LIABILITY.—

15 “(1) IN GENERAL.—Subject to paragraph (3), any
16 person who destroys, causes the loss of, or injures any
17 sanctuary resource is liable to the United States for re-
18 sponse costs and damages resulting from such destruc-
19 tion, loss, or injury.

20 “(2) LIABILITY IN REM.—Any vessel used to de-
21 stroy, cause the loss of, or injure any sanctuary re-
22 source shall be liable in rem to the United States for
23 response costs and damages resulting from such de-
24 struction, loss, or injury.

1 “(3) DEFENSES.—A person is not liable under
2 this subsection if that person establishes that—

3 “(A) the destruction or loss of, or injury to,
4 the sanctuary resource was caused solely by an
5 act of God, an act of war, or an act or omission
6 of a third party, and the person acted with due
7 care;

8 “(B) the destruction, loss, or injury was
9 caused by an activity authorized by Federal or
10 State law; or

11 “(C) the destruction, loss, or injury was neg-
12 ligible.

13 “(b) RESPONSE ACTIONS AND DAMAGE ASSESS-
14 MENT.—

15 “(1) RESPONSE ACTIONS.—The Secretary may
16 undertake all necessary actions to prevent or minimize
17 the destruction or loss of, or injury to, sanctuary re-
18 sources, or to minimize the imminent risk of such de-
19 struction, loss, or injury.

20 “(2) DAMAGE ASSESSMENT.—The Secretary
21 shall assess damages to sanctuary resources in accord-
22 ance with section 302(6).

23 “(c) CIVIL ACTIONS FOR RESPONSE COSTS AND DAM-
24 AGES.—The Attorney General, upon request of the Secre-
25 tary, may commence a civil action in the United States dis-

1 trict court for the appropriate district against any person or
2 vessel who may be liable under subsection (a) for response
3 costs and damages. The Secretary, acting as trustee for sanc-
4 tuary resources for the United States, shall submit a request
5 for such an action to the Attorney General whenever a
6 person may be liable for such costs or damages.

7 “(d) USE OF RECOVERED AMOUNTS.—Response costs
8 and damages recovered by the Secretary under this section
9 and civil penalties under section 307 shall be retained by the
10 Secretary in the manner provided for in section 107(f)(1) of
11 the Comprehensive Environmental Response, Compensation
12 and Liability Act (42 U.S.C. 9607(f)(1)), and used as follows:

13 “(1) RESPONSE COSTS AND DAMAGE ASSESS-
14 MENTS.—Twenty percent of amounts recovered under
15 this section, up to a maximum balance of \$750,000,
16 shall be used to finance response actions and damage
17 assessments by the Secretary.

18 “(2) RESTORATION, REPLACEMENT, MANAGE-
19 MENT, AND IMPROVEMENT.—Amounts remaining after
20 the operation of paragraph (1) shall be used, in order of
21 priority—

22 “(A) to restore, replace, or acquire the
23 equivalent of the sanctuary resources which were
24 the subject of the action;

1 “(B) to manage and improve the national
2 marine sanctuary within which are located the
3 sanctuary resources which were the subject of the
4 action; and

5 “(C) to manage and improve any other na-
6 tional marine sanctuary.

7 “(3) USE OF CIVIL PENALTIES.—Amounts recov-
8 ered under section 307 in the form of civil penalties
9 shall be used by the Secretary in accordance with sec-
10 tion 307(e) and paragraphs (2)(B) and (C) of this
11 subsection.

12 “(4) FEDERAL-STATE COORDINATION.—Amounts
13 recovered under this section with respect to sanctuary
14 resources lying within the jurisdiction of a State shall
15 be used under paragraphs (2)(A) and (B) in accordance
16 with an agreement entered into by the Secretary and
17 the Governor of that State.”.

18 (b) DAMAGES, RESPONSE COSTS, AND SANCTUARY
19 RESOURCE DEFINED.—Section 302 of the Act (16 U.S.C.
20 1432) is amended—

21 (1) by striking “and” at the end of paragraph (4);

22 (2) by striking the period in paragraph (5) and in-
23 serting “; and”; and

24 (3) by adding at the end the following:

25 “(6) ‘damages’ includes—

1 “(A) compensation for—

2 “(i)(I) the cost of replacing, restoring, or
3 acquiring the equivalent of a sanctuary re-
4 source; and

5 “(II) the value of the lost use of a sanc-
6 tuary resource pending its restoration or re-
7 placement or the acquisition of an equivalent
8 sanctuary resource; or

9 “(ii) the value of a sanctuary resource if
10 the sanctuary resource cannot be restored or
11 replaced or if the equivalent of such resource
12 cannot be acquired; and

13 “(B) the cost of damage assessments under
14 section 312(b)(2);

15 “(7) ‘response costs’ means the costs of actions
16 taken by the Secretary to minimize destruction or loss
17 of, or injury to, sanctuary resources, or to minimize the
18 imminent risks of such destruction, loss, or injury; and

19 “(8) ‘sanctuary resource’ means any living or non-
20 living resource of a national marine sanctuary that con-
21 tributes to the conservation, recreational, ecological,
22 historical, research, educational, or aesthetic value of
23 the sanctuary.”.

24 (c) EFFECTIVE DATE.—Amounts in the form of dam-
25 ages received by the United States after November 30, 1986,

1 for destruction or loss of, or injury to, a sanctuary resource
2 (as that term is defined in section 302(8) of the Act (as
3 amended by this Act)) shall be subject to section 312 of the
4 Act (as amended by this Act).

5 **SEC. 205. ACTIONS WITH RESPECT TO NEW SANCTUARIES.**

6 (a) **ISSUANCE OF NOTICE OF DESIGNATION.**—The
7 Secretary of Commerce shall issue a notice of designation
8 under section 304(b)(1) of the Act (16 U.S.C. 1434(b)(1))—

9 (1) with respect to the proposed Cordell Banks
10 National Marine Sanctuary as generally described in
11 the Federal Register notice of June 30, 1983, not later
12 than December 31, 1988;

13 (2) with respect to the Flower Garden Banks Na-
14 tional Marine Sanctuary as generally described in the
15 Federal Register notice of August 2, 1984, not later
16 than March 31, 1989;

17 (3) with respect to the Monterey Bay National
18 Marine Sanctuary as generally described in the Federal
19 Register notice of December 31, 1979, not later than
20 December 31, 1989; and

21 (4) with respect to the Western Washington Outer
22 Coast National Marine Sanctuary as generally de-
23 scribed in the Federal Register notice of August 4,
24 1983, not later than June 30, 1990.

1 (b) SUBMISSION OF PROSPECTUSES.—The Secretary of
2 Commerce shall submit a prospectus under section
3 304(a)(1)(C) of the Act (16 U.S.C. 1434(a)(1)(C)) to the Com-
4 mittee on Merchant Marine and Fisheries of the House of
5 Representatives and to the Committee on Commerce, Sci-
6 ence, and Transportation of the Senate—

7 (1) with respect to the Stellwagen Bank National
8 Marine Sanctuary, as generally described in the Feder-
9 al Register notice of August 4, 1983, not later than
10 September 30, 1990; and

11 (2) with respect to the Northern Puget Sound Na-
12 tional Marine Sanctuary, as generally described as the
13 Washington State Nearshore area in the Federal Reg-
14 ister notice of August 4, 1983, not later than March
15 31, 1991.

16 SEC. 206. STUDY OF AREAS FOR DESIGNATION AS OR INCLU-
17 SION IN NATIONAL MARINE SANCTUARIES.

18 (a) STUDY.—

19 (1) IN GENERAL.—The Secretary of Commerce
20 shall conduct a study of the areas described in subsec-
21 tion (c) for purposes of making determinations and find-
22 ings in accordance with section 303(a) of the Act (16
23 U.S.C. 1433(a))—

24 (A) regarding whether or not all or any part
25 of such areas are appropriate for designation as

1 national marine sanctuaries in accordance with
2 the Act; and

3 (B) regarding whether or not all or any part
4 of the areas described in subsection (c)(1), (2), and
5 (3) should be added to and administered as part of
6 the Key Largo National Marine Sanctuary or the
7 Looe Key National Marine Sanctuary.

8 (2) REPORT.—Not later than 2 years after the
9 date of the enactment of this Act, the Secretary of
10 Commerce shall submit a report to the Committee on
11 Merchant Marine and Fisheries of the House of Repre-
12 sentatives and to the Committee on Commerce, Sci-
13 ence, and Transportation of the Senate which sets
14 forth the determinations and findings referred to in
15 paragraph (1).

16 (b) DESIGNATION OR EXPANSION OF MARINE SANC-
17 TUARIES.—If as a result of a study conducted pursuant to
18 subsection (a) the Secretary of Commerce makes the determi-
19 nations and findings set forth in section 303(a) of the Act (16
20 U.S.C. 1433(a)) with respect to all or any part of the areas
21 described in subsection (c), the Secretary of Commerce, in
22 accordance with the procedures for the designation of nation-
23 al marine sanctuaries set forth in section 304 of the Act (16
24 U.S.C. 1434)—

1 (1) shall designate such areas or parts of such
2 areas as national marine sanctuaries; or

3 (2) shall, with respect to all or any part of the
4 areas described in subsections (c) (1), (2), and (3), add
5 such areas or parts of such areas to the Key Largo
6 National Marine Sanctuary or the Looe Key National
7 Marine Sanctuary;

8 as the Secretary of Commerce considers appropriate.

9 (c) AREAS DESCRIBED.—The areas referred to in sub-
10 sections (a) and (b) are the following:

11 (1) AMERICAN SHOAL.—The portion of the
12 marine environment in the Florida Keys in the vicinity
13 of American Shoal, including the part of such environ-
14 ment located generally between such shoal and the
15 Marquesas Keys.

16 (2) SOMBRERO KEY.—The portion of the marine
17 environment in the Florida Keys in the vicinity of and
18 surrounding Sombrero Key.

19 (3) ALLIGATOR REEF.—The portion of the
20 marine environment in the Florida Keys in the vicinity
21 of and surrounding Alligator Reef, including the por-
22 tion located generally between such reef and the Key
23 Largo National Marine Sanctuary.

24 (4) SANTA MONICA BAY.—The portion of the
25 marine environment off the coast of California com-

1 monly referred to as Santa Monica Bay, consisting of
2 an area described generally as follows: Beginning at
3 the point known as Point Dume near the western
4 extent of Santa Monica Bay, proceed generally south-
5 east along the shoreline to the point known as Point
6 Vincente near the southern extent of Santa Monica
7 Bay; then west to the 900 meter bathymetric contour;
8 then generally northwest along the 900 meter bathy-
9 metric contour to a point due west of Point Dume;
10 then east to Point Dume at the point of beginning.

11 (d) DEFINITION OF MARINE ENVIRONMENT.—For the
12 purposes of this section, the term “marine environment” has
13 the meaning such term has in section 302(3) of the Act (16
14 U.S.C. 1432(b)).

15 SEC. 207. ENFORCEMENT AMENDMENTS.

16 Section 307 of the Act (16 U.S.C. 1437) is amended to
17 read as follows:

18 “SEC. 307. ENFORCEMENT.

19 “(a) IN GENERAL.—The Secretary shall conduct such
20 enforcement activities as are necessary and reasonable to
21 carry out this title.

22 “(b) POWERS OF AUTHORIZED OFFICERS.—Any
23 person who is authorized to enforce this title may—

24 “(1) board, search, inspect, and seize any vessel
25 suspected of being used to violate this title or any reg-

1 ulation or permit issued under this title and any equip-
2 ment, stores, and cargo of such vessel;

3 “(2) seize wherever found any sanctuary resource
4 taken or retained in violation of this title or any regu-
5 lation or permit issued under this title;

6 “(3) seize any evidence of a violation of this title
7 or of any regulation or permit issued under this title;

8 “(4) execute any warrant or other process issued
9 by any court of competent jurisdiction; and

10 “(5) exercise any other lawful authority.

11 “(c) CIVIL PENALTIES.—

12 “(1) CIVIL PENALTY.—Any person subject to the
13 jurisdiction of the United States who violates this title
14 or any regulation or permit issued under this title shall
15 be liable to the United States for a civil penalty of not
16 more than \$50,000 for each such violation, to be as-
17 sessed by the Secretary. Each day of a continuing vio-
18 lation shall constitute a separate violation.

19 “(2) NOTICE.—No penalty shall be assessed
20 under this subsection until after the person charged has
21 been given notice and an opportunity for a hearing.

22 “(3) IN REM JURISDICTION.—A vessel used in
23 violating this title or any regulation or permit issued
24 under this title shall be liable in rem for any civil pen-
25 alty assessed for such violation and may be proceeded

1 against in any district court of the United States
2 having jurisdiction.

3 “(4) REVIEW OF CIVIL PENALTY.—Any person
4 against whom a civil penalty is assessed under this
5 subsection may obtain review in the United States dis-
6 trict court for the appropriate district by filing a com-
7 plaint in such court not later than 30 days after the
8 date of such order.

9 “(5) COLLECTION OF PENALTIES.—If any person
10 fails to pay an assessment of a civil penalty under this
11 section after it has become a final and unappealable
12 order, or after the appropriate court has entered final
13 judgment in favor of the Secretary, the Secretary shall
14 refer the matter to the Attorney General, who shall re-
15 cover the amount assessed in any appropriate district
16 court of the United States. In such action, the validity
17 and appropriateness of the final order imposing the
18 civil penalty shall not be subject to review.

19 “(6) COMPROMISE OR OTHER ACTION BY SECRE-
20 TARY.—The Secretary may compromise, modify, or
21 remit, with or without conditions, any civil penalty
22 which is or may be imposed under this section.

23 “(d) FORFEITURE.—

24 “(1) IN GENERAL.—Any vessel (including the
25 vessel’s equipment, stores, and cargo) and other item

1 used, and any sanctuary resource taken or retained, in
2 any manner, in connection with or as a result of any
3 violation of this title or of any regulation or permit
4 issued under this title shall be subject to forfeiture to
5 the United States pursuant to a civil proceeding under
6 this subsection.

7 “(2) APPLICATION OF THE CUSTOMS LAWS.—

8 The Secretary may exercise the authority of any
9 United States official granted by any relevant customs
10 law relating to the seizure, forfeiture, condemnation,
11 disposition, remission, and mitigation of property in en-
12 forcing this title.

13 “(3) DISPOSAL OF SANCTUARY RESOURCES.—

14 Any sanctuary resource seized pursuant to this title
15 may be disposed of pursuant to an order of the appro-
16 priate court, or, if perishable, in a manner prescribed
17 by regulations promulgated by the Secretary. Any pro-
18 ceeds from the sale of such sanctuary resource shall for
19 all purposes represent the sanctuary resource so dis-
20 posed of in any subsequent legal proceedings.

21 “(4) PRESUMPTION.—For the purposes of this

22 section there is a rebuttable presumption that all sanc-
23 tuary resources found on board a vessel that is used or
24 seized in connection with a violation of this title or of
25 any regulation or permit issued under this title were

1 taken or retained in violation of this title or of a regu-
2 lation or permit issued under this title.

3 “(e) PAYMENT OF STORAGE, CARE, AND OTHER
4 COSTS.—

5 “(1) IN GENERAL.—Notwithstanding any other
6 law, the Secretary may use amounts received under
7 this section in the form of civil penalties, forfeitures of
8 property, and costs imposed under paragraph (2) to
9 pay—

10 “(A) the reasonable and necessary costs in-
11 curred by the Secretary in providing temporary
12 storage, care, and maintenance of any sanctuary
13 resource or other property seized under this sec-
14 tion pending disposition of any civil proceeding re-
15 lating to any alleged violation with respect to
16 which such property or sanctuary resource was
17 seized; and

18 “(B) a reward to any person who furnishes
19 information leading to an assessment of a civil
20 penalty, or to a forfeiture of property, for a viola-
21 tion of this title or of any regulation or permit
22 issued under this title.

23 “(2) LIABILITY FOR COSTS.—Any person as-
24 sessed a civil penalty for a violation of this title or of
25 any regulation or permit issued under this title, and

1 any claimant in a forfeiture action brought for such a
2 violation, shall be liable for the reasonable costs in-
3 curred by the Secretary in storage, care, and mainte-
4 nance of any sanctuary resource or other property
5 seized in connection with the violation.

6 “(f) SUBPOENAS.—In the case of any hearing under
7 this section which is determined on the record in accordance
8 with the procedures provided for under section 554 of title 5,
9 United States Code, the Secretary may issue subpoenas for
10 the attendance and testimony of witnesses and the production
11 of relevant papers, books, and documents, and may adminis-
12 ter oaths.

13 “(g) USE OF RESOURCES OF STATE AND OTHER FED-
14 ERAL AGENCIES.—The Secretary shall, whenever appropri-
15 ate, use by agreement the personnel, services, and facilities
16 of State and other Federal departments, agencies, and instru-
17 mentalities, on a reimbursable or nonreimbursable basis, to
18 carry out the Secretary’s responsibilities under this section.

19 “(h) COAST GUARD AUTHORITY NOT LIMITED.—
20 Nothing in this section shall be considered to limit the au-
21 thority of the Coast Guard to enforce this or any other Fed-
22 eral law under section 89 of title 14, United States Code.

23 “(i) INJUNCTIVE RELIEF.—If the Secretary determines
24 that there is an imminent risk of destruction or loss of or
25 injury to a sanctuary resource, or that there has been actual

1 destruction or loss of, or injury to, a sanctuary resource
 2 which may give rise to liability under section 312, the Attor-
 3 ney General, upon request of the Secretary, shall seek to
 4 obtain such relief as may be necessary to abate such risk or
 5 actual destruction, loss, or injury, or to restore or replace the
 6 sanctuary resource, or both. The district courts of the United
 7 States shall have jurisdiction in such a case to order such
 8 relief as the public interest and the equities of the case may
 9 require.”.

10 SEC. 208. ¹/₈ AUTHORIZATION OF APPROPRIATIONS; U.S.S. MON-
 11 ITOR ARTIFACTS AND MATERIALS.

12 The Act is amended by adding at the end the following:
 13 “SEC. 313. AUTHORIZATION OF APPROPRIATIONS.

14 “There are authorized to be appropriated to the Secre-
 15 tary to carry out this title the following:

16 “(1) GENERAL ADMINISTRATION.—For general
 17 administration of this title—

18 “(A) \$1,800,000 for fiscal year 1989;

19 “(B) \$1,900,000 for fiscal year 1990;

20 “(C) \$2,000,000 for fiscal year 1991; and

21 “(D) \$2,100,000 for fiscal year 1992.

22 “(2) MANAGEMENT OF SANCTUARIES.—For
 23 management of national marine sanctuaries designated
 24 under this title—

25 “(A) \$2,000,000 for fiscal year 1989;

1 “(B) \$2,500,000 for fiscal year 1990;

2 “(C) \$3,000,000 for fiscal year 1991; and

3 “(D) \$3,250,000 for fiscal year 1992.

4 “(3) SITE REVIEW AND ANALYSIS.—For review
5 and analysis of sites for designation under this title as
6 national marine sanctuaries—

7 “(A) \$450,000 for fiscal year 1989;

8 “(B) \$500,000 for fiscal year 1990;

9 “(C) \$550,000 for fiscal year 1991; and

10 “(D) \$600,000 for fiscal year 1992.

11 “SEC. 314. U.S.S. MONITOR ARTIFACTS AND MATERIALS.

12 “(a) CONGRESSIONAL POLICY.—In recognition of the
13 historical significance of the wreck of the United States ship
14 Monitor to coastal North Carolina and to the area off the
15 coast of North Carolina known as the Graveyard of the At-
16 lantic, the Congress directs that a suitable display of artifacts
17 and materials from the United States ship Monitor be main-
18 tained permanently at an appropriate site in coastal North
19 Carolina.

20 “(b) INTERPRETATION AND DISPLAY OF ARTI-
21 FACTS.—

22 “(1) SUBMISSION OF PLAN.—The Secretary shall,
23 within six months after the date of the enactment of
24 this section, submit to the Committee on Merchant
25 Marine and Fisheries of the House of Representatives

1 a plan for a suitable display in coastal North Carolina
2 of artifacts and materials of the United States ship
3 Monitor.

4 “(2) CONTENTS OF PLAN.—The plan submitted
5 under subsection (a) shall, at a minimum, contain—

6 “(A) an identification of appropriate sites in
7 coastal North Carolina, either existing or pro-
8 posed, for display of artifacts and materials of the
9 United States ship Monitor;

10 “(B) an identification of suitable artifacts and
11 materials, including artifacts recovered or pro-
12 posed for recovery, for display in coastal North
13 Carolina;

14 “(C) an interpretive plan for the artifacts and
15 materials which focuses on the sinking, discovery,
16 and subsequent management of the wreck of the
17 United States ship Monitor; and

18 “(D) a draft cooperative agreement with the
19 State of North Carolina to implement the plan.

20 “(c) DISCLAIMER.—This section shall not affect the
21 following:

22 “(1) RESPONSIBILITIES OF SECRETARY.—The
23 responsibilities of the Secretary to provide for the pro-
24 tection, conservation, and display of artifacts and mate-
25 rials from the United States ship Monitor.

1 “(2) **AUTHORITY OF SECRETARY.**—The authority
2 of the Secretary to designate the Mariner’s Museum,
3 located at Newport News, Virginia, as the principal
4 museum for coordination of activities referred to in
5 paragraph (1).”.

6 **SEC. 209. CHANNEL ISLANDS NATIONAL MARINE SANCTUARY**
7 **PROTECTION.**

8 (a) **REPORT.**—The Secretary of Transportation, not
9 later than 6 months after the date of the enactment of this
10 Act, shall transmit to Congress—

11 (1) the provisions of international conventions and
12 United States laws and regulations which reduce the
13 risk of a vessel collision or incident resulting in damage
14 to the environment in the Channel Islands National
15 Marine Sanctuary;

16 (2) the provisions of the National Contingency
17 Plan for removal of oil and hazardous substances pre-
18 pared under section 311(c) of the Federal Water Pollu-
19 tion Control Act (33 U.S.C. 1321(c)) which enable the
20 Secretary to effectively respond to an oil pollution inci-
21 dent in or affecting the Channel Islands National
22 Marine Sanctuary;

23 (3) a list of pollution exercises conducted under
24 that National Contingency Plan in the Santa Barbara
25 Channel before the date of the enactment of this Act,

1 and a schedule of pollution exercises scheduled to be
2 conducted under that plan in that channel during the
3 12 months following the date of the enactment of this
4 Act; and

5 (4) a report on the establishment—

6 (A) under the Ports and Waterways Safety
7 Act (33 U.S.C. 1221 et seq.) of safety fairways
8 off the coast of California; and

9 (B) of the Long Beach NAVTEX in Long
10 Beach, California.

11 (b) STUDY REVIEW AND REPORT.—The Secretary of
12 Transportation shall review all Federal, State, and local
13 studies conducted on the hazards of shipping operations and
14 the risks those operations pose to the environment and natu-
15 ral resources of the Channel Islands National Marine Sanctu-
16 ary, and report to the Congress not later than 6 months after
17 the date of the enactment of this Act on the status and rec-
18 ommendations of each of those studies. The Secretary shall
19 include in the report a recommendation on whether an alter-
20 nate vessel traffic separation scheme would reduce the risks
21 of shipping operations to the environment and natural re-
22 sources in the Channel Islands National Marine Sanctuary.

23 (c) PROPOSAL OF DESIGNATION OF AREA TO BE
24 AVOIDED.—The Secretary of Transportation shall prepare
25 and submit a proposal to the International Maritime Organi-

1 zation to designate the portion of the Channel Islands Na-
2 tional Marine Sanctuary which is outside of the Santa Bar-
3 bara Channel Traffic Separation Scheme, as an area to be
4 avoided. The Secretary shall ensure that the proposal would
5 not result in undue interference with international vessel traf-
6 fic in the Santa Barbara Channel, with operations associated
7 with the United States Navy Pacific Missile Test Range, or
8 with enjoyment of the Channel Islands National Marine
9 Sanctuary under title III of the National Marine Protection,
10 Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et
11 seq.).

12 **SEC. 210. REGULATIONS.**

13 Not later than one year after the date of the enactment
14 of this Act, the Secretary of Commerce—

15 (1) shall propose regulations implementing the
16 amendments made by this title; and

17 (2) shall issue final regulations implementing the
18 amendments made by the Marine Sanctuaries Amend-
19 ments of 1984.

20 **TITLE III—NATIONAL OCEANS POLICY**

21 **COMMISSION**

22 **SEC. 301. SHORT TITLE.**

23 This title may be cited as the “National Oceans Policy
24 Commission Act of 1988.”.

1 SEC. 302. FINDINGS.

2 The Congress finds that—

3 (1) the manner in which the oceans and the Great
4 Lakes are used affects the national security, transpor-
5 tation needs, economy, food resources, energy and raw
6 materials needs, international leadership, and the qual-
7 ity of the environment of the people of the United
8 States;

9 (2) Presidential Proclamation 5030 of March 10,
10 1983, which established the Exclusive Economic Zone
11 of the United States of America and proclaimed the
12 sovereign rights of the United States over ocean re-
13 sources out to 200 nautical miles from the coastline of
14 the United States, requires the development and imple-
15 mentation of a comprehensive exploration and monitor-
16 ing plan to adequately address the conservation and
17 development of the zone;

18 (3) the work of the Commission on Marine Sci-
19 ence, Engineering, and Resources (known as the
20 “Stratton Commission”) in the 1960’s was instrumen-
21 tal in initially defining the structure of United States
22 oceans policy, and led to the enactment of major
23 ocean-related legislation and the establishment of key
24 oceanic and atmospheric institutions;

25 (4) recent concern regarding expanding Federal
26 expenditures has resulted in the retrenchment of many

1 ocean initiatives of the 1970's and, as a result, the
2 complexion of United States ocean programs has
3 changed significantly; and

4 (5) with Federal fiscal resources expected to be
5 severely limited at least to the end of the century, a
6 reexamination of the Nation's oceans, Great Lakes,
7 and atmospheric activities is needed, and a new coordi-
8 nated and comprehensive national oceans policy, based
9 on that reexamination, must be developed in order that
10 wise use of the oceans and the Great Lakes can be im-
11 plemented in a peaceful and balanced fashion.

12 **SEC. 303. PURPOSE.**

13 The purpose of this Act is to establish a commission to
14 propose to the Congress and the President a comprehensive
15 oceans policy (and develop recommendations for the imple-
16 mentation of that policy) that will assist the Congress and the
17 President in—

18 (1) developing domestic policies and laws to pro-
19 mote the wise use and conservation of marine re-
20 sources, including Great Lakes resources;

21 (2) developing international policies and laws to
22 promote the peaceful uses of the oceans and balance
23 the interests of all nations;

24 (3) promoting United States leadership in marine
25 scientific research, facilities, and technology;

1 (4) developing the role and capacity of the United
2 States in the monitoring and prediction of global oce-
3 anic and atmospheric processes; and

4 (5) appropriately allocating the responsibilities for
5 marine and atmospheric research and marine resource
6 understanding, conservation, management, and devel-
7 opment among the various levels of government and
8 the private sector and promoting the efficient use of
9 limited fiscal resources for such activities.

10 **SEC. 304. ESTABLISHMENT OF COMMISSION.**

11 (a) **IN GENERAL.**—There is established a commission to
12 be known as the National Oceans Policy Commission (herein-
13 after referred to in this Act as the “Commission”).

14 (b) **NUMBER OF MEMBERS.**—The Commission shall
15 consist of 17 members who shall be appointed by the Presi-
16 dent in accordance with the provisions of this section not
17 later than March 10, 1989.

18 (c) **MEMBER QUALIFICATIONS.**—The membership of
19 the Commission shall be composed in such a matter as to
20 provide that 14 of the members shall be appointed from the
21 following qualification categories:

22 (1) 3 members shall be from private sector non-
23 profit organizations involved with national oceans
24 policy (including, but not limited to, those with con-
25 sumer and environmental interests).

1 (2) 5 members shall be from private sector com-
2 mercial organizations involved with national oceans
3 policy (including, but not limited to, those with marine
4 transportation and living and nonliving marine resource
5 interests).

6 (3) 2 members shall be Governors, not of the
7 same political party, of coastal states in different geo-
8 graphical regions.

9 (4) 2 members shall be specialists in marine sci-
10 ence from the academic community.

11 (5) 2 members shall be selected from at large, at
12 least one of whom shall be knowledgeable in interna-
13 tional oceans policy.

14 (d) **NOMINEES FOR MEMBERSHIP.**—(1)(A) The Majori-
15 ty Leader of the Senate (hereinafter in this Act referred to as
16 the “Majority Leader”) and the Speaker of the House of
17 Representatives (hereinafter referred to in this Act as the
18 “Speaker”), in consultation with the Minority Leader of each
19 House, respectively, shall each prepare a list of 14 nominees
20 for appointment to the Commission.

21 (B) Each list of nominees prepared under subparagraph
22 (A)—

23 (i) shall contain nominees that meet the qualifica-
24 tions set forth in subsection (c); but

25 (ii) may not contain any of the same nominees.

1 No more than half of the nominees on each list may be mem-
2 bers of the same political party.

3 (C) The Majority Leader and the Speaker shall submit
4 the lists prepared under subparagraph (A) to the President no
5 later than February 10, 1989.

6 (D) The President shall appoint 7 members of the Com-
7 mission from the list submitted by the Majority Leader and 7
8 members from the list submitted by the Speaker. No more
9 than 7 members of the Commission appointed under this
10 paragraph may be members of the same political party.

11 (2) The President shall make 3 appointments to the
12 Commission in addition to those appointed under paragraph
13 (1). Federal officers or employees or individuals employed in
14 the private sector are eligible for appointment under this
15 paragraph. No more than 2 of the individuals appointed
16 under this paragraph may be members of the same political
17 party.

18 (3) The President, the Majority Leader, and the Speaker
19 shall jointly select a Chairman and Vice Chairman of the
20 Commission from members appointed under paragraph
21 (1)(D). The Vice Chairman shall act as Chairman in the ab-
22 sence of the Chairman.

23 (e) VACANCIES.— Except as may be required by elec-
24 toral changes, members of the Commission shall be appointed
25 to serve until the Commission terminates under section 312.

1 In the event of a vacancy, a new member shall be appointed
 2 in the same manner in which the original appointment was
 3 made. In the case of the vacancy of a member appointed
 4 under subsection (d)(1)(D), the new member shall—

5 (1) be in the same qualification category under
 6 subsection (c) as the former member; and

7 (2) be appointed from a list of at least two nomi-
 8 nees prepared by the Majority Leader or the Speaker
 9 as appropriate.

10 (f) MEETING OF COMMISSION.—The Chairman or a
 11 majority of the members may call a meeting of the Com-
 12 mission.

13 **SEC. 305. ADVISORS TO THE COMMISSION.**

14 **SEC. 5. (a) CONGRESSIONAL ADVISORS.—**(1) The
 15 Commission shall have 8 congressional advisors who shall
 16 advise the Commission in the formulation of findings and rec-
 17 ommendations. Four of the advisors are members of the
 18 Senate selected by the Majority Leader and 4 of the advisors
 19 are Members of the House of Representatives selected by the
 20 Speaker. Each congressional advisor must have knowledge
 21 appropriate to the concerns of the Commission.

22 (2) No more than 2 of the Congressional advisors from
 23 each House may be members of the same political party.

1 (b) **MILITARY ADVISOR.**—The Chairman of the Joint
2 Chiefs of Staff, or his designee, shall serve in an advisory
3 capacity to the Commission.

4 **SEC. 306. FUNCTIONS OF THE COMMISSION.**

5 (a) **COMPREHENSIVE POLICY.**—(1) The Commission
6 shall propose to the President and to Congress a comprehen-
7 sive national policy to carry out the purpose of this Act.

8 (2) The Commission shall develop recommendations on
9 the international and domestic ocean policies, laws, regula-
10 tions, and activities of the United States that will define and
11 implement the comprehensive policy proposed under para-
12 graph (1). The recommendations shall—

13 (A) address domestic (including the Great Lakes)
14 and international marine policy issues;

15 (B) include any modifications in existing United
16 States policies, laws, regulations, and practices neces-
17 sary to develop efficient long-range programs for—

18 (i) research in marine and atmospheric
19 sciences;

20 (ii) the understanding, conservation, manage-
21 ment, and development of, marine resources, in-
22 cluding Great Lakes Resources; and

23 (iii) the protection of the ocean environment;

24 (C) address the most appropriate allocation of re-
25 sponsibilities for research in marine and atmospheric

1 sciences and for the understanding, conservation, man-
2 agement, and development of marine resources among
3 Federal agencies, State and local governments, and the
4 private sector; and

5 (D) consider any other aspects of United States
6 related policies, laws, regulations, and practices consid-
7 ered necessary by the Commission in carrying out its
8 duties pursuant to this subsection.

9 (b) DEVELOPMENT OF RECOMMENDATIONS.—In de-
10 veloping recommendations under subsection (a), the Commis-
11 sion shall—

12 (1) survey and review all existing and planned
13 ocean-related activities of Federal agencies, including
14 those relating to navigation, marine research, national
15 security, and the conservation, management, and de-
16 velopment of marine resources, and the protection of
17 the marine environment;

18 (2) survey and review all existing and planned
19 marine facilities and equipment, including surface ships,
20 undersea research vehicles and habitats, computers,
21 oceanographic satellites, and other appropriate research
22 tools;

23 (3) evaluate the relationships among Federal
24 agencies, State and local government and the private
25 sector for planning and carrying out the activities de-

1 scribed in this subsection, considering areas of substan-
2 tial coincidence of interest and responsibilities among
3 the various levels of government, academia, industry,
4 and the public interest community and other users of
5 the marine environment, in order to enhance the effi-
6 cient use of marine resources.

7 (4) consider Presidential Proclamation 5030 of
8 March 10, 1983, on the Exclusive Economic Zone of
9 the United States of America, including an examina-
10 tion of opportunities and the need for economic devel-
11 opment within the exclusive economic zone which have
12 a major impact on the coastal zone of the States and
13 the adequacy of present laws to manage such develop-
14 ment in such a way as to minimize conflict;

15 (5) consider the relationships of United States
16 policies to the Convention of the Law of the Sea and
17 actions available to the United States to affect peaceful
18 collaborations between the United States and other na-
19 tions, including the development of cooperative interna-
20 tional marine programs which will facilitate opportuni-
21 ties for United States and foreign scientists to work to-
22 gether in the waters of the cooperating nations and to
23 provide for the development of such programs in the
24 United States; and

1 (6) engage in any other preparatory work deemed
2 necessary to carry out the duties of the Commission
3 pursuant to this section.

4 **SEC. 307. POWERS OF THE COMMISSION.**

5 (a) **OBTAINING INFORMATION.**—The Commission may
6 secure directly from any department or agency of the United
7 States any information it considers necessary to carry out its
8 functions under this Act. Each department or agency shall
9 cooperate with the Commission and, to the extent permitted
10 by law, furnish information to the Commission upon request
11 of the Chairman.

12 (b) **USE OF MAILS.**—The Commission may use the
13 United States mails in the same manner and under the same
14 conditions as other departments and agencies of the United
15 States.

16 (c) **ADMINISTRATIVE SUPPORT.**—The General Services
17 Administration shall provide to the Commission on a reim-
18 bursable basis the administrative support services that the
19 Commission may request.

20 (d) **CONTRACTUAL AUTHORITY.**—The Commission
21 may enter into contracts with Federal and State agencies,
22 private firms, institutions, and individuals to assist the Com-
23 mission in carrying out its duties. The Commission may pur-
24 chase and contract without regard to section 303 of the Fed-
25 eral Property and Administration Services Act of 1949 (41

1 U.S.C. 253), section 18 of the Office of Federal Procurement
2 Policy Act (41 U.S.C. 416), and section 8 of the Small Busi-
3 ness Act (15 U.S.C. 637), pertaining to competition and pub-
4 lication requirements, and may arrange for printing without
5 regard to the provisions of title 44, United States Code. The
6 contracting authority of the Commission under this Act is
7 effective only to the extent that appropriations are available
8 for contracting purposes.

9 **SEC. 308. ADMINISTRATIVE PROVISIONS.**

10 (a) **DETAIL OF PERSONNEL.**—Upon request of the
11 Commission, the head of any Federal agency shall detail any
12 of the personnel of the agency to the Commission to assist
13 the Commission in carrying out its functions under this Act.
14 To the extent feasible, such detail shall be on a reimbursable
15 basis.

16 (b) **VOLUNTEER SERVICES.**—The Commission may
17 accept and use the services of volunteers serving without
18 compensation, and to reimburse volunteers for travel ex-
19 penses, including per diem in lieu of subsistence, as author-
20 ized by section 5703 of title 5, United States Code.

21 (c) **CONSULTANTS.**—To the extent that funds are avail-
22 able, and subject to the rules that may be prescribed to the
23 Commission, the Director appointed under section 309(a)
24 may procure the temporary and intermittent services of ex-
25 perts and consultants under section 3109(b) of title 5, United

1 States Code, but at rates not to exceed the rate of pay for
2 GS-18 of the General Schedule.

3 (d) CONDUCT OF MEETINGS.—(1) All meetings of the
4 Commission shall be open to the public, except when the
5 Chairman or a majority of the members of the Commission
6 determine that the meeting or any portion of it may be closed
7 to the public. Interested persons shall be permitted to appear
8 at open meetings and present oral or written statements on
9 the subject matter of the meeting. The Commission may ad-
10 minister oaths or affirmations to any person appearing before
11 it.

12 (2) All open meetings of the Commission shall be pre-
13 ceded by timely public notice in the Federal Register of the
14 time, place, and subject of the meeting.

15 (3) Minutes of each meeting shall be kept and shall con-
16 tain a record of the people present, a description of the dis-
17 cussion that occurred, and copies of all statements filed. Sub-
18 ject to section 552 of title 5, United States Code, the minutes
19 and records of all meetings and other documents that were
20 made available to or prepared for the Commission shall be
21 available for public inspection and copying at a single loca-
22 tion in the offices of the Commission.

23 (4) The Federal Advisory Committee Act (5 U.S.C.
24 App. 1-15) does not apply to the Commission.

1 SEC. 309. DIRECTOR AND STAFF OF COMMISSION.

2 (a) DIRECTOR.—The Commission shall have a Director
3 who shall be appointed by the Chairman and who shall be
4 paid at a rate not to exceed the rate of basic pay for GS-18
5 of the General Schedule. The Director shall be knowledgeable
6 in administrative management and ocean policy.

7 (b) STAFF.—Subject to such rules as may be prescribed
8 by the Commission, the Director may hire staff for the Com-
9 mission and shall fix appropriate compensation. The hiring
10 and compensation of the Director and staff under this section
11 may occur without regard to the provisions of title 5, United
12 States Code, governing appointments in the competitive serv-
13 ice, and without regard to the provisions of chapter 51 and
14 subchapter III of chapter 53 of such title relating to classifi-
15 cation and General Schedule pay rates.

16 SEC. 310. COMPENSATION OF MEMBERS.

17 (a) IN GENERAL.—Except as provided in subsection (b),
18 members of the Commission shall be paid at a rate not to
19 exceed the basic pay for a GS-18 of the General Schedule
20 for each day, including traveltime, during which such mem-
21 bers are engaged in the actual performance of the Commis-
22 sion duties.

23 (b) EXCEPTION.—A member of the Commission who is
24 an officer or employee of the United States may not receive
25 pay for service on the Commission, but shall be reimbursed
26 from funds authorized by this Act for travel expenses, includ-

1 ing per diem in lieu of subsistence as may be authorized by
2 law for persons in Government service employed inter-
3 mittently.

4 **SEC. 311. COMMISSION REPORT.**

5 No later than 2 years after the Commission first meets,
6 the Commission shall submit simultaneously to the President
7 and to each House of the Congress a detailed final report
8 regarding the comprehensive oceans policy and the recom-
9 mendations required to be developed under section 306.

10 **SEC. 312. TERMINATION OF THE COMMISSION.**

11 The Commission shall cease to exist 30 days after the
12 date of the submission of the final report under section 311.

13 **SEC. 313. AUTHORIZATION OF APPROPRIATIONS.**

14 There are authorized to be appropriated such sums, but
15 not to exceed \$2,000,000, as are necessary to carry out this
16 Act. Such sums are to remain available until expended.

17 **TITLE IV—MISCELLANEOUS**

18 The Secretary of the department in which the Coast
19 Guard is operating shall transfer the Coast Guard cutter
20 "INGHAM" to the Naval and Maritime Museum at Patriots
21 Point, South Carolina. The Secretary shall transfer the
22 "INGHAM" along with such equipment and in such condi-
23 tion as the Secretary considers appropriate. The Secretary
24 shall make the transfer upon the decommissioning of the

- 1 "INGHAM" or at a later time as determined appropriate by
- 2 the Secretary.

Passed the House of Representatives October 4, 1988.

Attest: DONNARD K. ANDERSON,
Clerk.

Calendar No. 1133

100TH CONGRESS
2D SESSION

H. R. 4210

AN ACT

To authorize appropriations to carry out titles II and III of the Marine Protection, Research, and Sanctuaries Act of 1972, to establish the National Oceans Policy Commission, and for other purposes.

OCTOBER 7 (legislative day, OCTOBER 6), 1988

Read twice and ordered to be placed on the calendar